

Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

NATHEN BARTON,

Plaintiff

v.

SERVE ALL, HELP ALL, INC.; and  
JOHN DOE 1-10,

Defendants.

CASE NO. 3:21-cv-05338-BHS

MOTION TO COMPEL

PLEASE TAKE NOTICE that Plaintiff Nathen Barton (hereinafter referred to as “Plaintiff”) moves the Court to compel the Defendant to produce requested interrogatory responses and documents, and a complete and accurate FRCP 26(a)(1) initial disclosure.

**I. INTRODUCTION**

The bedrock of this case is about three illegal ‘robocalls’, a detail that will be very important later in this motion.

On May 7, 2021, Plaintiff filed an action captioned Nathen Barton v. Serve All, Help All, Inc. (“SAHA”). et al, in the United States District Court, Western District of Washington with cause number 3:21-cv-05338-BHS.

MOTION TO COMPEL - 1 / 7  
CASE NO 3:21-CV-05338-BHS

NATHEN BARTON  
4618 NW 11<sup>TH</sup> CIR  
CAMAS WA 98607

1 Defense Counsel Donna Gibson (“Gibson”) appeared for SAHA on June 30, 2021, and  
2 directed all parties to “Please send all further notices, pleadings, except for original process to  
3 Donna Gibson, Law Office of Donna Beasley Gibson, 1204 Cleveland Ave., Mount Vernon, WA  
4 98273”

5 The 26(f) conference for this case was scheduled and took place on July 23, 2021.

6 During that 26(f) conference, Plaintiff brought up the subject of email of motions and  
7 documents and discovery by email instead of regular mail, and both parties agreed.

8 Plaintiff told Gibson three discovery documents were already on the way in the United  
9 States Postal System, but in the future, Plaintiff would email as discussed.

10 **Interrogatories, Requests for Production, Requests for Admission Sent**

11 On that day, July 23, 2021, Plaintiff mailed interrogatory questions, and requests for  
12 documents and admissions to that address via USPS first class mail with tracking number  
13 9400111108296531530656.

14 The United States Post Office reported delivery of the package on July 26, 2021.

15 The morning of August 30, 2021, Plaintiff had not received any response or objection to  
16 any discovery request.

17 Late morning on August 30, 2021, Plaintiff called Gibson to inquire about the discovery  
18 documents sent on July 30, 2021.

19 Plaintiff reached Gibson and she professed to never have received the package.

20 Plaintiff reviewed the shipping address and tracking information, and do believe the  
21 discovery request was property mailed, and delivered by the post office.

22 **The Admissions Issue is already before the Court**

23 On 8/30/2021, Plaintiff filed a motion (Dkt. 16) to deem the untimely Admissions,  
24 admitted, along with a supporting declaration (Dkt. 17).

1 Gibson responded (Dkt. 24) asking the Court to make 30 days from August 30 the due  
2 date for said discovery requests (Dkt. 24, page 3, lines 13-15):

3 “Therefore, the court should deem August 30, the date that the requests were emailed, per  
4 prior agreement, as the date of service and allow the defendants 30 days from that date to  
respond so that the matter may proceed on its merits.”

5 **Even using Gibson’s timeline, the Interrogatory and Production responses are past due**

6 Today, 9/30/2021 is 31 days from Gibson’s own requested deadline of August 30, and the  
7 documents and interrogatory requests have not been delivered.

8 On 9/29/2021, Plaintiff reached out to Gibson to inquire if the discovery answers would  
9 be delivered by the due date, and Gibson responded that because <COVID> the answers and  
10 documents would not be forthcoming on the due date.

11 These <COVID> reasons apparently do not allow a singled answered interrogatory of the  
12 six asked, or a single document to be turned over in response to nine different requests.

13 **Incomplete or wrong information in the Initial Disclosure**

14 Mentioned earlier, the bedrock of this case is three illegal robocalls. SAHA’s FRCP  
15 26(a)(1) initial disclosure said:

16 “The documents regarding the phone system which is an auto dialer, and its programs  
17 and protocol are on the server located at  
18 CFB Tel  
3151 Airway Ave #B2  
Costa Mesa, CA 92626  
19 (949) 381-2525”

20 Plaintiff requested a subpoena from this Court for these documents and the associated  
21 phone records, and reached out to the CEO of CFB Tel, a Mr. Mak Siram (“Siyami”) about  
22 obtaining the records.

23 Siyami reported:

1 “I would not waste more time with our subpoena, We checked our records and there is no  
2 trace of this client name [Serve All, Help All, Inc] . . . in our system”

3 Given that this company hasn’t any dealings with SAHA, something else Siyami wrote  
4 also makes sense. In response to the question:

5 “Did someone from Serve All, Help All, Inc reach out to you months ago letting you  
6 know to preserve all call records related to Serve All, Help All, Inc and calls to 360 910  
7 1019?”

8 Siyami replied “We have not received any notifications from anyone about this number  
9 or client.”

10 SAHA’s initial disclosure appears to be either false – no relevant records are at CFB Tel  
11 and this was a wild goose chase – or incomplete, as in the records are there but under some  
12 undisclosed entity name.

13 As these robocalls are the backbone of the litigation, obtaining these records is very  
14 important.

## 15 **II. MOTION**

16 Plaintiff believes that based on information turned over to date, additional parties should  
17 be joined to this litigation. The delayed and inaccurate responses are an effort to get past the  
18 Court ordered October 4 deadline to join additional parties before turning over information that  
19 would give Plaintiff a solid foundation to move for additional parties be joined.

20 Plaintiff asks this court to compel SAHA to answer the asked interrogatories and turn  
21 over the requested documents within 15 days.

22 Plaintiff asks this Court to extend the October 4 deadline for adding additional parties by  
23 60 days.

24 Plaintiff asks this Court to compel SAHA to disclose the following information about the  
“documents regarding the phone system which is an auto dialer”:

- 1 a) The correct name of the entity or entities that owned the “auto dialer” equipment  
2 and placed the calls at issue in this litigation.
- 3 b) The entity name on whose behalf the calls in a) were placed, such that entities in  
4 a) can be given a narrowly focused subpoena request for the documents and  
5 phone records needed in this litigation.

6 s/ Nathen Barton  
(signed)

9/30/2021  
(Dated)

7  
8 Nathen Barton  
(718) 710 5784  
9 4618 NW 11<sup>th</sup> Cir  
Camas WA 98607

10  
11 CERTIFICATE OF SERVICE

12 I hereby certify that on September 30, 2021, I caused the foregoing document to be  
13 electronically filed with the Clerk of the Court using the Electronic Filing (CM/ECF) system,  
14 which will send notification of such filing to all counsel of record and all pro se parties registered  
15 to use the CM/ECF system.

16  
17 s/ Nathen Barton  
18 Nathen Barton

9/30/2021  
(Dated)

Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

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Plaintiff

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[PROPOSED] ORDER

ORDER

THIS MATTER came before the Court on Plaintiff's MOTION TO COMPEL. Having considered the matter, as well as the pleadings and records in the Court's file and the relevant legal authorities, the Court is full informed. It is HEREBY ORDERED:

Within fifteen (15) days of entry of this order, Serve All, Help All, Inc. must produce all documents that are responsive to:

PLAINTIFF'S FIRST SET OF INTERROGATORIES  
PLAINTIFF'S FIRST REQUEST FOR PRODUCTION

Within fifteen (15) days of entry of this order, Serve All, Help All, Inc. must verify that it has disclosed the following in its FRCP 26(a)(1) initial disclosure:

- 1 a) The correct name of the entity or entities that owned the “auto dialer” equipment  
2 and placed the calls at issue in this litigation.
- 3 b) The entity name on whose behalf the calls in a) were placed, such that entities in  
4 a) can be given a narrowly focused subpoena request for the documents and  
5 phone records needed in this litigation.

6 The deadline for motions to join parties is extended 60 days from the date this Order is  
7 granted.

8 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

9 \_\_\_\_\_  
10 Judge of District Court  
11 Clark County, Washington

12 APPROVED AS TO FORM

13 \_\_\_\_\_  
14 s/ Nathen Barton  
15 Nathen Barton, Pro Se